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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,326	11/24/2003	Michael Sanke	APV31660	2633

7590 01/23/2006
STEVENS, DAVIS, MILLER & MOSHER, LLP
Suite 850
1615 L Street N.W.
Washington, DC 20036

EXAMINER

STRIMBU, GREGORY J

ART UNIT PAPER NUMBER

3634

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/719,326	Applicant(s) SANKE ET AL.	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 23-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/8/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election with traverse of Group I in the reply filed on October 31, 2005 is acknowledged. The traversal is on the ground(s) that both inventions I and II can be searched without a serious burden. This is not found persuasive because the invention of Group II at least requires searching in other classes and/or subclasses not required for searching the invention of Group I. Accordingly, said additional searching presents an addition burden on the examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claims 23-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 31, 2005.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

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The abstract of the disclosure is objected to because phrases such as “[t]he invention relative to” on line 1 can be easily implied and therefore should be deleted. On line 3, “including” is confusing since it is unclear to which element of the invention the applicant is referring. On lines 3 and 6, the legal phraseology “means” should be avoided. On line 13, “therewith” is confusing since it is unclear what the applicant is attempting to set forth. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because recitations such as “in scrap view” on line 1 of page 12 are confusing since it is unclear what comprises a scrap view. On lines 21 and 22 of page 14, it appears that “40” should be changed to --47--. Throughout the specification the applicant should avoid referring to the same element of the invention with different language. For example, the applicant should avoid referring to element 42 as “the axial end” on line 27 of page 14 and as “the plate connecting portion” on line 29 of page 14. On line 20 of page 15, “adapted to” is grammatically awkward and confusing.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to more succinctly recite the invention.

Claim Rejections - 35 USC § 112

Claims 1-22, 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as “secured to or integrally configured with” on line 5 of claim 1 render the claims indefinite because it is unclear which one of the art recognized non-equivalent alternatives the applicant is attempting to positively set forth. Recitations such as “configured separately” on line 2 of claim 2 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Recitations such as “said connecting plate” on line 3 of claim 2 render the claims indefinite because it is unclear if the applicant is referring to the connecting plate element set forth above or is attempting to set forth another connecting plate in addition to the one set forth above. Recitations such as “at least one axial retracting recess” on line 4 of claim 3 render the claims indefinite because it is unclear if the applicant is referring to the recess set forth above or is attempting to set forth another recess in addition to the one set forth above. Recitations such as “and/or” on line 5 of claim 3 render the claims indefinite because it is unclear what is meant by the recitation “/”. Is the applicant setting forth “and” and “or”, or is the applicant setting forth “and” or “or”. Recitations such as “said tube connecting element” on line 3 of claim 5, “said hollow shaft” on line 3 of claim 11, “the clasping portion” on lines 3-4 of claim 12 render the claims indefinite because they lack antecedent basis. Recitations such as “for facing to” on line 3 of claim 12 are grammatically awkward and confusing. Recitations such as “thereof” on line 3 of claim

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13 render the claims indefinite because it is unclear what element of the invention the applicant is referring to with the recitation "thereof". Recitations such as "plate-type" on line 2 of claim 15 render the claims indefinite because it is unclear what comprises a plate "type" portion. How much like a plate must an element be before it can be referred to as "plate like"? Recitations such as "nearer" on line 4 of claim 15 render the claims indefinite because it is unclear what distances the applicant is comparing.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-6, 8-10, 18, 20-22, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent Publication No. 0 651 123. European Patent Publication No. 0 651 123 discloses a shaft operator assembly for powering a door comprising a movable door leaf and a door shaft geared to said door leaf for common movement, including a shaft connecting means for connecting a driven member 26 of said shaft operator assembly to said door shaft 1, wherein said shaft connecting means comprises a connecting plate element 24 secured to or integrally configured with said driven member and a shaft connecting element 8 mountable non-rotatably, on said door shaft, said shaft connecting element including an axial opening (not numbered, but shown in figure 3) extending through said shaft connecting element for receiving, non-

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rotatably, said door shaft and connectable or connected by a plate connecting portion 11 located radial outside of said opening to said connecting plate element, the shaft connecting element is shiftably mountable on said door shaft and definably locked in place thereon by positive friction action against shifting out of place by the clamping cap screw 10, the shaft connecting element comprises a radial tapped hole (not numbered, but shown in figure 3 receiving the clamping cap screw 10) for receiving the clamping cap screw to lock said tube connecting element to said door shaft, the inner axial opening of said shaft connecting element comprises a protuberance 9 extending radial inwards for engaging a slot 5 extending axial on the contour of said door shaft, the driven member is formed by or comprises a hollow shaft (not shown, but see page 8, lines 7-11) totally housed in a gearcase (not numbered, but shown in figure 3) which receives part of the connecting plate element (see page 8, lines 7-11), a coupler 27, the connecting plate includes a receiving recess (not numbered, but shown in figure 3) on the side of the connecting plate facing the door shaft 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Publication No. 0 651 123 as applied to claims 1, 2, 4-6, 8-10, 15, 18, 20-22, 27

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and 28 above, and further in view of Mullet et al. '454. Mullet et al. '454, in figure 3, discloses a shaft connecting element 70 having a plate connecting portion comprising at least one axial protuberance 73 and at least one axial retracting recess (not numbered, but shown in figure 3) and a connecting plate element 54 having a structure configured complementary to the plate connecting portion, corresponding with at least one axial retracting recess for receiving the protuberance 73 for engaging the recess so that the plate connection portion and connecting plate interlock.

It would have been obvious to one of ordinary skill in the art to provide European Patent Publication No. 0 651 123 with a connection means, as taught by Mullet et al. '454, to more securely connect the connecting plate element with the shaft connecting element.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Publication No. 0 651 123 as applied to claims 1, 2, 4-6, 8-10, 15, 18, 20-22, 27 and 28 above. European Patent Publication No. 0 651 123 teaches using the same shaft 1 with different drive mechanisms 22 by providing a plurality of connecting plate elements 24 for attachment to each of the different drive mechanisms (see page 3, lines 19-21). In other words, European Patent Publication No. 0 651 123 teaches providing a plurality of different sized elements for attachment to differently sized existing door elements.

Accordingly, it would have been obvious to one of ordinary skill in the art to provide the shaft connecting elements with different sizes, as taught by European Patent Publication No. 0 651 123, to accommodate different door shaft sizes.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Publication No. 0 651 123 as applied to claims 1, 2, 4-6, 8-10, 15, 18, 20-22, 27 and 28 above, and further in view of Mullet et al. '792. Mullet et al. '792 discloses a drive assembly comprising a hollow shaft 57, a connecting plate 64 non-rotatably attached to the hollow shaft via a coupler (not numbered, but comprising the distal portion of the shaft 60 on the right hand side as shown in figure 10), the coupler comprising an engaging portion 61 positively and non-rotatably engaging the hollow shaft.

It would have been obvious to one of ordinary skill in the art to provide European Patent Publication No. 0 651 123 with an engaging means, as taught by Mullet et al. '792, to ensure the proper engagement between the hollow shaft and the connecting plate element.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Publication No. 0 651 123 as applied to claims 1, 2, 4-6, 8-10, 15, 18, 20-22, 27 and 28 above, and further in view of Benson. Benson discloses a hollow shaft C having a coupler 12, the coupler 12 includes a flange portion (not numbered, but comprising the head of the coupler 12), the flange portion of the coupler 12 is insertable

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non-rotatably in the axial opening since the driven member can be rotated instead of the coupler.

It would have been obvious to one of ordinary skill in the art to provide the driven member 26 of European Patent Publication No. 0 651 123 with a hollow portion and a connecting member, as taught by Benson, to prevent the connecting plate element from separating from the driven member.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Publication No. 0 651 123 as applied to claims 1, 2, 4-6, 8-10, 15, 18, 20-22, 27 and 28 above, and further in view of Anderson. Anderson discloses a coupler 24 locked in place by a cap screw 23 extending axially in a driven member 16.

It would have been obvious to one of ordinary skill in the art to provide the driven member of European Patent Publication No. 0 651 123 with a coupler, cap screw, and corresponding opening in the driven member, as taught by Anderson, to prevent the connecting plate element from separating from the driven member.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Publication No. 0 651 123 as applied to claims 1, 2, 4-6, 8-10, 15, 18, 20-22, 27 and 28 above, and further in view of Hormann. Hormann discloses an overhead door assembly comprising zinc die cast (see column 5, lines 60-61).

It would have been obvious to one of ordinary skill in the art to provide European Patent Publication No. 0 651 123 with a zinc die cast construction, as taught by

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Hormann, to reduce the weight of the connecting plate element and the shaft connecting element.

Allowable Subject Matter

Claim 15, as best understood by the examiner, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach the outer contour of said plate-type flanged portion of said coupler has a modified hexagonal shape in which four flats are located by their centerpoints equispaced radially from said longitudinal centerline, a fifth edge being configured nearer to said longitudinal centerline and longer and a sixth edge being adapted to the contour of said axial opening of said tube connecting element serving to engage said drive tube. See claim 15, lines 1-6.

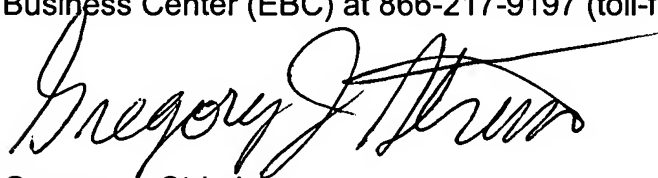
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Savard et al., Miller, Dorma, Krupke et al. '235 and '835, Lotznicker et al., and Bresson are cited for disclosing a drive mechanism for an overhead door.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
Art Unit 3634
January 12, 2006